

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 2054**

In the Matter of)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service Seeks Comment on Review of)	
Lifeline and Link-Up Service for Low)	
Income Customers)	FCC 01J-2

**REPLY COMMENTS
OF THE TEXAS OFFICE OF PUBLIC UTILITY COUNSEL**

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Reply Comments of the Texas Office of Public Utility Counsel

The Texas Office of Public Utility Counsel (“TxOPC”) is the independent Texas state agency that represents over 6 million Texas residential and small business consumers in telecommunications proceedings. TxOPC submits this reply in response to other commentor’s initial comments regarding the October 12, 2001 Public Notice on Lifeline and Link-Up Service for Low Income Customers.¹

I. Income Eligibility Should Supplement Program Eligibility Requirements

A. Many Low-Income Families do not Participate in Federal Programs

Most consumer commentors agree that participation in eligible Federal Programs such as Medicaid, SSI, etc. as the sole criteria for Lifeline or Link-Up discounts excludes many otherwise eligible or needy families.² There are a number of factors discussed at length in the Initial Comments about why many poor families do not participate in federal programs. The focus of the FCC in this proceeding should be how to design the programs so that these families receive the telecommunications discounts to which they are entitled. Income eligibility is the easiest and most comprehensive criteria to use to accomplish this goal. Federal program participation was meant to be a proxy for income eligibility. However, based on the information contained in the initial comments, that proxy is no longer adequate as a fair representation of eligibility for Lifeline and Link-Up programs.³

¹ *Federal-State Joint Board on Universal Service Seeks Comment on Review of Lifeline and Link-Up Service for all Low-Income Consumers*, CC Docket No. 96-45, Public Notice, FCC 01j-2 (Rel. Oct. 12, 2002).

² See e.g., Comments of the National Consumer Law Center on Behalf of Massachusetts Union of Public Housing Tenants at pp. 12-13; Comments of the National Association of State Utility Consumer Advocates at pp. 6-10.

³ See e.g., Comments of National Consumer Law Center at pg. 12.

Income-eligibility is already used successfully by several large states. For example, Texas, California, Nevada, and Ohio presently use income eligibility as a component in its Lifeline or Link-Up programs.⁴ The Texas Commission specifically adopted a supplemental income eligibility requirement to capture a percentage of the population that is low income but that does not participate in federal programs, thus acknowledging that program eligibility as the sole criteria is inadequate.⁵

However, TxOPC also agrees with the comments of the National Association of State Utility Consumer Advocates that participation in current eligible federal programs should not be deleted as a criteria, only that it should be supplemented by income eligibility requirements.⁶ As SBC Communications Inc. points out, on-line verifications of federal program participation is easy and quick.⁷ Program eligibility continues to provide a good method for enrolling some of the eligible population. Income eligibility should capture the rest of the eligible population.

B. The Minimum Eligibility Requirement should be 150% of the Poverty Level

Income requirements for eligible federal and state assistance programs vary widely between 100% to 185% of the federal poverty level.⁸ Thus, a family whose combined income totals 150%, 160% or even 185% of the federal poverty level would be eligible for government assistance. Considering the small size of the Lifeline and Link-Up discounts as compared to other governmental assistance programs, 150% of the

⁴ NASUCA comments at pg. 12; Texas Public Utility Commission Comments at pp. 4-5.

⁵ Texas PUC Comments at pg. 5.

⁶ NASUCA comments at pg. 13.

⁷ SBC Communications Inc. Comments at pg. 6.

minimum income eligibility requirement seems modest. It also is inherently arbitrary and unfair to allow some families to qualify for Lifeline or Link-Up programs because of participation in an eligible government program while excluding other needy families whose income is less. There is no rational basis for this distinction. TxOPC also agrees with other commentors who suggest that states should be allowed the discretion to expand federal guidelines to include more families.⁹

TxOPC supports the comments of NASUCA in recommending 150% of the federal poverty level as an appropriate income eligibility threshold.¹⁰ Even at the 150% threshold, there will still be many poor and working poor families who will be ineligible and who are still unable to afford the basic necessities of life, such as food.¹¹ There are fourteen million people who live at or below 125% of the poverty level and only an additional two million people who fall between the 125% and 150% of the poverty level.¹² Thus, including those needy families up to 150% only adds a small incremental increase in the needed funding.

C. Self-Certification Subject to Verification or Audit

TxOPC supports those commentors who urge self-certification as an important component of increasing the enrollment of eligible families in the Lifeline and Link-Up programs.¹³ If income eligibility is adopted as a supplemental criteria, then self-certification is the easiest and most cost effective method for enrolling those families. The experience in Texas with self-certification has been a positive one. Before initiating

⁸ Texas PUC Comments at pg. 4.

⁹ *See e.g.*, Texas PUC Comments at pg.5.

¹⁰ NASUCA Comments at pp. 14-18.

¹¹ *Id.* at pg. 17.

¹² National Consumer Law Center Comments at pg. 12.

¹³ *See e.g.*, NASUCA Comments at pp. 24-25, Texas PUC Comments at pg. 7, National Consumer Law Center Comments at pg. 13.

self-certification in Texas, a review was undertaken to see how the process worked in other jurisdictions. Like the Texas experience, most jurisdictions reported favorable increases in subscribership with very few problems.

Contrary to the claims by SBC Communications Inc. that self-certification may induce consumer fraud,¹⁴ that has not been the experience in Texas.¹⁵ Through simple means of verification, self-certification of income eligibility has worked very well in Texas.¹⁶ It is through our own experience that both TxOPC and the Texas PUC recommend to the FCC that it adopt income eligibility as a supplemental criteria. Our agencies have seen the positive effects of self-certification of income eligibility in securing Lifeline and Link-Up discounts for needy families.¹⁷

There are numerous methods for verifying income eligibility. In addition to the methods employed in Texas, TxOPC supports the approaches of other commentors who suggest that verification upon demand or spot audits of a small percentage of customers would yield equally favorable results.¹⁸

II. Automatic Enrollment

Dramatic increases in enrollment are obtainable with automatic enrollment. Six months after implementation of automatic enrollment, Texas achieved an aggregate 48% increase.¹⁹ However the numbers are even more astounding if one looks to increases within individual companies, rather than the aggregate increase. For example the increase in enrollment in the South Plains Telephone Cooperative was 16,900%; the

¹⁴ SBC Communications Inc., Comments at pg. 3.

¹⁵ Texas PUC Comments at pg. 7.

¹⁶ *Id.*

¹⁷ Texas PUC Comments at pg. 6.

¹⁸ NASUCA Comments at pp. 25-26, National Consumer Law Center at pg. 13.

¹⁹ Texas PUC Comments at pg. 3.

increase in the Electra Telephone Company was 16,700%; the increase in the Poka Lambro Telephone Cooperative was 13,600%; the increase in the Wes-Tex telephone Cooperative was 5,400%. These are just a few of the success stories in Texas.²⁰ Of the 62 companies in Texas, all experienced increases in enrollment and only 7 had increases less than 100%.

The success of automatic enrollment is indisputable. Is automatic enrollment easy to achieve? No. Does automatic enrollment require the cooperation of governmental agencies and telecommunications carriers? Yes. Is automatic enrollment a goal that the FCC should pursue? Absolutely.

If automatic enrollment can work in Texas and New York, it can work anywhere. Despite a sizeable number of carriers in Texas, a combination of urban and rural locations, the sheer size of the state, and the large population, automatic enrollment was achieved in Texas. Of course, there are still issues to be resolved. However, with the backing and the oversight of both the Texas Legislature and the Texas PUC, automatic enrollment has produced significant gains in enrollment and is a cornerstone of universal service in Texas. If the FCC were to make the same commitment to automatic enrollment that has been made by some state jurisdictions, then there is no doubt that automatic enrollment will be successful in enrolling eligible families and promoting universal service. TxOPC urges the Commission to make that commitment.

III. Adequate Outreach Programs Must be Included in Federal Requirements

TxOPC agrees with commentators who suggest that adequate outreach programs should be included in federal requirements.²¹ As long as eligible families are unaware of

²⁰ Texas PUC Comments at Attachment A.

²¹ NASUCA Comments at pp. 33-35, National Consumer Law Center Comments at pg. 5, 7-9.

these programs, enrollment will be negatively impacted. A multi-faceted approach that targets both English and significant non-English populations should be used. Reliance on only bill stuffers is inadequate. As pointed out by several commentors, you already have to have phone service to receive a bill. Thus, bill stuffers do nothing to reach that population that is currently without phone service. Bill notices, separate mailings, website information, posters, coordinated efforts with other federal agencies and even outreach campaigns are all appropriate in a concerted integrated effort to reach customers. TxOPC believes that the FCC should allow some discretion and flexibility for states to design their own programs. However, the overall policy should be set by the FCC and included in any subsequent Order.